

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

July 24, 2018

To: Subcommittee on Environment Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on “Background on Renewable Identification Numbers under the Renewable Fuel Standard”

On **Wednesday, July 25, 2018, at 9:15 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Environment will hold a hearing on “Background on Renewable Identification Numbers under the Renewable Fuel Standard.”

I. BACKGROUND

Section 211(o) of the Clean Air Act, titled as the Renewable Fuels Standard program (RFS), requires the Environmental Protection Agency (EPA) to create a program that allows refiners, blenders, and importers, subject to the RFS (the “obligated parties”) to generate, buy, and sell credits representing a certain amount of renewable fuels.¹ EPA established a credit tracking and trading system based on the renewable identification number (RIN), a unique 38-digit code assigned to each gallon of biofuel produced or imported into the United States. This memorandum provides a summary of the major features of the RIN program. For a more detailed description of the RIN program, please see the [report](#) prepared by the Congressional Research Service.²

At the end of a compliance year, each obligated party must have enough RINs to demonstrate it has met its renewable volume obligation and blended the mandated quantity of

¹ Clean Air Act § 211(o)(5).

² Congressional Research Service, *Analysis of Renewable Identification Numbers (RINs) in the Renewable Fuel Standard (RFS)*, R42824 (Apr. 8, 2014) (www.crs.gov/Reports/pdf/R42824?source=search&guid=830d619b158c48209490b651bd149518&index=0).

biofuels into the transportation fuel supply. An obligated party can obtain these RINs in two ways: (1) it can purchase the required volume of biofuel and blend it into the fuel supply, obtaining the RINs directly, or (2) it can purchase RINs in the open market.

When a biofuels producer makes a gallon of biodiesel, for example, the producer also is generating a RIN that is associated with that gallon of biodiesel. When the producer sells that gallon of biodiesel to a fuel blender, the RIN is transferred as well. When the fuel blender blends the fuel into the fuel supply for retail sale, the RIN is “separated” from the gallon of fuel. The fuel blender, if it is an obligated party, can then use that RIN to demonstrate compliance with its Renewable Volume Obligation. If the fuel blender is not an obligated party, it can sell the RIN on the open market to an obligated party or to RIN marketers serving the obligated parties. In that way, RINs, once separated from the biofuel, trade like a financial security.

All RIN transactions are recorded in EPA’s Moderated Transaction System (EMTS). This is an electronic database for reporting and tracking transactions in the RIN market. Obligated parties are responsible for determining the validity of RINs they acquire, and for certifying the validity of RINs they sell to others or submit to EPA for compliance.³

II. PAST DIFFICULTY IN RIN MARKETS

The RIN program operates on a “buyer beware” basis. The RIN market is not subject to the same level of regulation and scrutiny as other commodity markets. As a result, problems related to the production and trading of fraudulent RINs have arisen over the course of the program. During the 112th Congress, the Subcommittee on Oversight and Investigations held a hearing on several significant cases of RIN fraud that occurred between 2010 and 2011,⁴ and the EPA subsequently prosecuted those cases. In 2014, EPA established a Quality Assurance Program to combat the problem of RIN fraud, and to provide some liability protection to obligated parties that unknowingly purchased or traded fraudulent RINs. In 2016, EPA signed a Memorandum of Agreement with the Commodity Futures Trading Commission to obtain assistance in better overseeing markets related to renewable fuels.⁵

³ *Id.* at 4.

⁴ House Committee on Energy and Commerce, *Hearing on RIN Fraud: EPA’s Efforts to Ensure Market Integrity in the Renewable Fuels Program*, 112th Cong. (Jul. 11, 2012) (H. Rept. 112-161).

⁵ Memorandum of Understanding Between the Environmental Protection Agency and the Commodity Futures Trading Commission On The Sharing Of Information Available To EPA Related To The Functioning of Renewable Fuel And Related Markets. (Mar. 3, 2016) (www.epa.gov/sites/production/files/2016-03/documents/epa-cftc-mou-2016-03-16.pdf).

III. CURRENT ISSUES RELATED TO PRICES IN THE RIN MARKET

RIN prices fluctuate on the market, especially prices for biodiesel and advanced biofuel RINs.⁶ Refiners claim that the high price of RINs is a significant financial burden, comprises a major part of their operating costs, and jeopardizes the viability of some refineries.⁷

Congress included a provision in the Clean Air Act giving the EPA Administrator authority to grant hardship waivers from RFS blending obligations. Recently, the Trump Administration used this authority to grant waivers to a relatively large number of specific small refineries. In fact, EPA granted a record number of waivers, leading to questions raised by the biofuels industry as to whether all of these waivers were justified by hardship conditions for each refinery receiving them. This aggressive use of the waiver provision has lowered RIN prices, and raised strong concerns about the waiver program's effect on the biofuels market.⁸

IV. WITNESSES

The following witnesses have been invited to testify:

Sandra Dunphy

Director, Energy Compliance
Weaver and Tidwell LLP

Paul Niznik

Consultant
Argus Media Incorporated

Brent D. Yacobucci

Section Research Manager
Congressional Research Service

Gabriel E. Lade

Assistant Professor
Department of Economics, Iowa State University

⁶ See note 2 at 6-9.

⁷ *Oil Refiners Cry Foul as 'RINsanity' Returns Amid Margin Squeeze*, Bloomberg (Aug. 4, 2016) (www.bloomberg.com/news/articles/2016-08-04/oil-refiners-cry-foul-as-rinsanity-returns-amid-margin-squeeze).

⁸ *Biofuel groups ask U.S. government to slow small refinery waiver program*, Reuters (Jul. 18, 2018) (www.reuters.com/article/us-usa-biofuels-epa/biofuel-groups-ask-u-s-government-to-slow-small-refinery-waiver-program-idUSKBN1K82UL).

Corey Lavinsky
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